

REMARKS/ARGUMENTS

Status of the Claims

Claims 1-22 and 24-27 are currently pending in the application. Claims 1, 14, 22, and 24 have been amended. No claims have been added or canceled. Therefore, claims 1-22 and 24-27 are present for examination. No new matter has been added by the amendments. Claims 1, 14, and 22 are independent claims. Applicants respectfully request reconsideration of this application as amended.

Claim Objections

Claim 24 was objected to because of certain informalities. Claim 24 has been amended, rendering the objection moot.

Rejection Under 35 U.S.C. § 103

Claims 1-22 and 24-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,058,417 issued to Hess et al. (“**Hess**”) in view of U.S. Patent No. 7,120,608 B1 issued to Gallagher et al. (“**Gallagher**”), and further in view of www.tomsown.com/htmlsnippet.html (“**Tomsown**”). Applicants respectfully traverse the obviousness rejection. To establish a *prima facie* case of obviousness, all claim limitations must first be taught or suggested by the prior art. *See, e.g., DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1360 (Fed. Cir. 2006). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03 (*citing In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). The Examiner must then provide an explicit analysis supporting the rejection. *See KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (“a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art”). While the Examiner can choose one of several exemplary rationales from the MPEP to support an obviousness rejection under *KSR*, all the rationales still require the Examiner to demonstrate that all the claim elements are shown in the prior art. *See* MPEP § 2143, Original Eighth Edition, August 2001, Latest Revision July 2008.

Embodiments presented in the Application generally relate to online money transfers between buyers and sellers that use vending sites to buy or sell goods and services. “The present invention facilitates online money transfers between payors and payees that use vending sites.” *Application*, p. 2, lines 30-31. Vending sites facilitate person-to-person sales and can be auction sites or classified advertising sites. *See Application*, p. 2, lines 31-32. To purchase a good or service, the buyer selects listings provided by the vending site. *See Application*, p.3, lines 15-17 (“The sender 110 points their browser to the vending site 140 to choose a purchase listing associated with the receiver 130.”). The listings can be auctions or classified advertisements. *See Application*, p. 3, lines 17-18. “Goods or services offered in a listing can be paid for using the payment enabler 170.” *Application*, p. 2, lines 18-19. A buyer relies on the payment enabler to allow the money transfer in the person-to-person sale. *Id.*, p. 2, line 32-p. 3, line 2; *see also* p. 3, lines 23-33. The payment enabler and the vending site are separate. *See Application*, p. 3, lines 19-21. Thus, the vending site, in embodiments, is a web site that lists one or more seller’s offer(s) for the sale of goods and/or services that can be purchased by a buyer.

To enable the payment process with the payment enabler, a snippet, which may have a link and a button associated therewith, is pasted into the vendor site. *Id.*, Fig. 5, step 532; *see also* p. 9, lines 15-19 and p. 9, line 30-p. 10, line 8. The button associated with the snippet changes when the buyer can make a payment. *See id.*, p. 13, lines 1-9. The buyer can then select the button, and the link associated with the button, to be directed to the payment enabler. *Id.*, Fig. 6, step 624, *see also* p. 13, lines 31-32. The payment enabler then helps transfer money from the buyer to the seller associated with the sale on the vendor site. *Id.*, Fig. 6, step 644.

Claim 1:

Applicants respectfully assert that Hess, Gallagher, and Tomsown, either alone or in combination, does not teach or suggest one or more claim elements. More specifically, the combination of Hess, Gallagher, and Tomsown fails to teach or suggest “in response to receiving the login information, automatically determining listings at the vending site associated with the seller based on the login information, wherein the listings offer goods or services for sale, wherein the listings are one of auctions, electronic advertisements, or classified advertisements,”

or “in response to changing the graphic, providing a link in the snippet with the changed graphic, wherein activating the link points a web browser to a payment enabler that can transfer money from the buyer to the seller, wherein the vending site is separate from the payment enabler.” For at least these reasons, Applicants respectfully request reconsideration of the rejection to the claims.

Missing Limitation: “in response to receiving the login information, automatically determining listings at the vending site associated with the seller based on the login information, wherein the listings offer goods or services for sale, wherein the listings are one of auctions, electronic advertisements, or classified advertisements”

Claim 1 also requires “in response to receiving the login information, automatically determining listings at the vending site associated with the seller based on the login information, wherein the listings offer goods or services for sale, wherein the listings are one of auctions, electronic advertisements, or classified advertisements.” Listings are offers for the sale of goods or services from a seller to a buyer. *See Application*, p. 2, lines 18-19. Listing could be classified advertisements, electronic advertisements, or auctions. *See Application*, p. 3, lines 17-18. Hess is cited for this proposition on page 3 of the Office Action by simply listing Figure 1. *Office action*, page 3. The listing of sales shown in Figure 1 represents “the results of a user query.” *Hess*, col. 7, lines 28-30. Hess simply fails to describe a system of creating a set of listings *in response to the login information*. This step ensures the seller can review sales associated with the seller without searching for those sales.

Gallagher does not describe an auction sited. Tomsown also does not include a description of a vending site or listings at the vending site. As such, the combination of Hess and Tomsown fails to teach this claim limitation.

Missing Limitation: “in response to changing the graphic, providing a link in the snippet with the changed graphic, wherein activating the link points a web browser to a payment enabler that can transfer money from the buyer to the seller, wherein the vending site is separate from the payment enabler”

Claim 1 also requires “in response to changing the graphic, providing a link in the snippet with the changed graphic, wherein activating the link points a web browser to a payment

enabler that can transfer money from the buyer to the seller, wherein the vending site is separate from the payment enabler.” Hess is cited for changing a graphic. *Office action*, page 3. Hess states as follows:

FIG. 8 is a flow diagram illustrating item presentation processing according to one embodiment of the present invention. The assignee of the present invention has observed that in the context of item presentation only a small amount of information actually needs to be changed in the HTML that is generated for various user queries. For an item presentation format, such as that illustrated in FIG. 9, the information that varies is essentially limited to: the item title, the current minimum bid, the image, and the auction ending time. *The remainder of the web page comprises HTML interface elements that remain constant regardless of the result of the user's query.*

Hess, col. 8, line 60 – col. 9, line 5.

Hess describes just the opposite of what the Examiner states. Indeed, Hess states that the user interface elements are not changed. As such, Hess actually fails to teach this element. Further, there is no teaching that the link is to a payment enabler. Hess teaches “In order to view detailed information on a particular item of interest, the buyer is required to select the hypertext link 115 associated with the item.” *Hess*, col. 1, lines 49-51. As such, *Hess* cannot teach a change in the snippet to include the link to a payment enabler.

Gallagher does not include an auction site with links to the payment enabler. Tomsown provides an example of HTML code to place an email address with a GIF file into a web page but fails to teach inserting an HTML snippet *into a listing of a vending site*. Therefore, the combination of Hess, Gallagher, and Tomsown fails to teach this claim limitation.

Motivation to Combine

The Supreme Court in *KSR* specifically stated that obviousness is shown only if “the subject matter *as a whole* would have been obvious at the time the invention was made.” *KSR*, 127 S. Ct. at 1734 (*emphasis added*). In other words, the Examiner must provide a motivation to combine all references together. Including two or more motivations, directed at subsets of the references, does not comply with the ruling provided by the Supreme Court in *KSR*.

The Examiner has not provided a motivation as to why the invention as a whole would have been obvious. Rather, the Examiner has stated a motivation for combining Hess and Gallagher and combining Hess with Tomsown. However, the Examiner has not stated any motivation for combining Hess, Gallagher, and Tomsown. Regardless, the Examiner is required to provide a single motivation for combining Hess, Gallagher, and Tomsown. Thus, the Examiner's stated motivations or lack thereof is improper and defeats the Examiner's attempt to provide a *prima facie* case of obviousness.

For at least this reason, claim 1 is allowable over the cited art.

No Reasonable Expectation of Success

The combination of Hess and Tomsown could not be combined because the combination would fail to achieve the functions recited in the claims. Claim 1 requires "automatically inserting one of the plurality of snippets into each of the listings; . . . in response to changing the graphic, providing a link in the snippet with the changed graphic, wherein activating the link points a web browser to a payment enabler that can transfer money from the buyer to the seller, wherein the vending site is separate from the payment enabler." As the Examiner admits, Hess does not describe HTML snippets. *See Office action*, page 3.

The snippet described in Tomsown does not point to a payment enabler but to an email address. Thus, adding the snippet in Tomsown to Hess does not accomplish the asserted claim element, notably "activating the link points a web browser to a payment enabler." Thus, the combination of Tomsown and Hess has no expectation of success and fails to provide a *prima facie* case for obviousness.

Claims 2-13:

Claims 2-13 each depend, either directly or indirectly, from allowable independent claim 1. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Therefore, claims 2-13 are also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

Claim 14:

Claim 14 includes the same or similar limitations to allowable claim 1. The Examiner explicitly recognizes this similarity. *See Office Action*, p. 7. Thus, claim 14 is allowable over the cited art for the same or similar reasons.

Claims 15-21:

Claims 15-21 each depend, either directly or indirectly, from allowable independent claim 14. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Therefore, claims 15-21 are also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

Claim 22:

Claim 22 includes the same or similar limitations to allowable claim 1. The Examiner explicitly recognizes this similarity. *See Office Action*, p. 7. Thus, claim 22 is allowable over the cited art for the same or similar reasons.

Claims 24-27:

Claims 24-27 each depend, either directly or indirectly, from allowable independent claim 22. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Therefore, claims 24-27 are also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Applicants do not acquiesce to any objection, rejection, or argument not specifically addressed herein. Rather, the Applicants believe the amendments and arguments contained herein overcome all objections, rejections, or arguments.

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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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